

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

QADIR AMIR LAMB,

Plaintiff,

v.

GLOUCESTER COUNTY SUPERIOR
COURT, et al.,

Defendant.

HONORABLE JEROME B. SIMANDLE

Civil Action
No. 13-6890 (JBS)

MEMORANDUM OPINION

SIMANDLE, Chief Judge:

Before the Court is Plaintiff Qadir Amir Lamb's application to proceed in district court without paying fees or costs and to file a petition for a writ of mandamus. The Court will dismiss this action because the Court finds as follows:

1. The Court has reviewed Plaintiff's Application to Proceed Without Prepayment of Fees and Affidavit. [Docket Item 3.] Because the Affidavit discloses that Plaintiff is indigent, the Court will permit Plaintiff's petition to be filed without prepayment of fees, pursuant to 28 U.S.C. § 1915(a).

2. Section 1915 requires the Court to preliminarily review each action filed in forma pauperis and to "dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief

against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). A case is frivolous if it "lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989) (interpreting 1915(e)(2)'s predecessor, the former § 1915(d)).

3. Plaintiff submitted a "Writ of Mandamus" in which he "[p]etitions this court to issue a Writ of Mandamus to order JUDGE M. CHRISTINE ALEEN-JACKSON to enforce the Default Judgment filed on JUNE 12, 2013" [Docket Item 1 at 1.] Judge Allen-Jackson is a New Jersey State Court judge.

4. A federal district court "may issue all writs necessary or appropriate in aid of [its] respective jurisdictions" 28 U.S.C. § 1651(a). "The first question . . . is whether the District Court has any jurisdiction" to issue the writ. In re Richards, 213 F.3d 773, 778 (3d Cir. 2000). In other words, "[b]efore entertaining the application, then, [the court] must identify a jurisdiction that the issuance of the writ might assist." United States v. Christian, 660 F.2d 892, 894 (3d Cir. 1981).

5. This Court lacks jurisdiction to issue a writ of mandamus against a state court judge. The Third Circuit has held that, when a party "request[ed] the district court to issue a writ of mandamus compelling action by a state official, it [wa]s clear that the district court had no jurisdiction to grant such

relief." In re Wolenski, 324 F.2d 309, 309 (3d Cir. 1963); see also In re Jones, 28 F. App'x 133, 135 (3d Cir. 2002) ("The federal courts . . . have no general power in a mandamus action to compel action . . . by state officials").

6. Because the Court lacks jurisdiction to use a writ of mandamus against a state court judge, the Court will dismiss Plaintiff's Petition for Writ of Mandamus as frivolous. The dismissal will be with prejudice because amendment is futile.

January 28, 2014

Date

s/ Jerome B. Simandle

JEROME B. SIMANDLE

Chief U.S. District Judge